

National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information

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CASES SUMMARIZED
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Guardsmark, LLC (20-CA-31495-1, 31573-1; 344 NLRB No. 97) San Francisco, CA June 7, 2005. The Board unanimously adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act by maintaining a rule that prohibits its employees from complaining about their terms and conditions of employment to the Respondent's customers. [\[HTML\]](#) [\[PDF\]](#)

Chairman Battista and Member Schaumber also adopted the judge's conclusion that the Respondent did not violate the Act by maintaining a rule that forbids employees from fraternizing with co-employees or with the employees of the Respondent's customers. Member Liebman found, contrary to her colleagues, that the Respondent's rule prohibiting employees from "fraterniz[ing]" with coemployees or customers offends Section 8(a)(1). She adhered to the views expressed in her dissent in *Lafayette Park Hotel*, 326 NLRB 824 (1998), enf'd. 203 F.3d 52 (D.C. Cir. 1999), where she concluded that a similar rule did not adequately define what is proscribed and that the ambiguity in the rule tended to chill reasonable employees in the exercise of their Section 7 rights.

The judge concluded that the Respondent's "no-solicitation-in-uniform" rule did not violate the Act. Unlike the judge, Chairman Battista and Member Liebman held that Section 8(a)(1) prohibits the Respondent from maintaining a rule that proscribes employee solicitation at any time while in uniform. In accord with their finding, they modified the judge's proposed order to require immediate rescission or modification of the unlawful rules and to provide for nationwide posting of a remedial notice.

Contrary to his colleagues, Member Schaumber found that the Respondent's "no-solicitation-in-uniform" rule did not violate Section 8(a)(1) and, like the judge, would dismiss this complaint allegation. He agreed with the judge that: (1) the rule is sufficiently clear on its face to advise employees that they should not engage in unofficial business while in uniform, which implies that such activities are permissible while not in uniform; and (2) that employees would reasonably understand, without having to be specifically told, that removing or covering their uniforms would constitute compliance with this provision.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Service Employees Local 24/7 and Jee Venish, an Individual; complaint alleged violation of Section 8(a)(1) and (3). Hearing at San Francisco, April 29-30, 2004. Adm. Law Judge Gerald A. Wacknov issued his decision July 28, 2004.

Maryland State Teachers Assn. (5-CA-31962, 31963; 344 NLRB No. 98) Annapolis, MD June 9, 2005. The Board agreed with the administrative law judge's finding that Respondent Assistant Executive Director Dale Templeton's remarks to Charging Parties Jeffrey J. Dean and Edward Charles Fortney that she was tired of receiving their letters regarding the terms and conditions of their employment, and her admonition that such letters would have to stop if they were to remain

Respondent's employees, violated Section 8(a)(1) of the Act. No exceptions were filed to the judge's dismissal of complaint allegations that the Respondent violated Section 8(a)(1) by making job-security threats and by interrogating employees. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Jeffrey J. Dean and Edward Charles Fortney, Individuals; complaint alleged violation of Section 8(a)(1). Hearing at Baltimore on Jan. 20, 2005. Adm. Law Judge Arthur J. Amchan issued his decision March 24, 2005.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

M.J. Mechanical Services, Inc., et al. (Sheet Metal Workers Locals 46 and 71) Tonawanda, NY June 3, 2005. 3-CA-23680, et al.; JD-37-05, Judge C. Richard Miserendino.

Columbiana Hi Tech, LLC (an Individual) Columbiana, OH June 7, 2005. 8-CA-35545; JD(ATL)-24-05, Judge Michael A. Marcionese.

ACS, LLC (Food & Commercial Workers Local 1096) Yuma, AZ June 6, 2005. 28-CA-19291; JD(SF)-45-05, Judge Thomas M. Patton.

Midbrook, Inc. (Auto Workers [UAW]) Jackson, MI June 8, 2005. 7-CA-47972, 48172; JD(ATL)-22-05, Judge William N. Cates.

All Seasons Construction, Inc. (Carpenters Local 764) Shreveport, LA June 8, 2005. 15-CA-14748, et al.; JD(ATL)-20-05, Judge John H. West.

Aldi Electric, Inc. (Electrical Workers [IBEW] Local 236) Schenectady, NY June 10, 2005. 3-CA-24332; JD-42-05, Judge George Alemán.

Annalee Griffin d/b/a North Carolina License Plate Agency #18 (an Individual) Goldsboro, NC June 8, 2005. 11-CA-20479; JD(ATL)-21-05, Judge John H. West.

TEST OF CERTIFICATION

(In the following case, the Board granted the General Counsel's motion for partial summary judgment on the grounds that the Respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding.)

Family Fare, Inc. d/b/a Glen's Market (Food & Commercial Workers Local 876) (7-CA-48457; 344 NLRB No. 100) Gaylord, MI June 10, 2005. [\[HTML\]](#) [\[PDF\]](#)

**LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS
IN REPRESENTATION CASES**

*(In the following cases, the Board considered exceptions to and
adopted Reports of Regional Directors or Hearing Officers)*

DECISION AND CERTIFICATION OF REPRESENTATIVE

New York Yankee Partnership and River Operating Company, Inc., Bronx, NY, 2-RC-22954,
June 8, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Fastrax Enterprises, Fort Worth and Coppell, TX, 16-RC-10639, June 8, 2005
(Chairman Battista and Members Liebman and Schaumber)

*(In the following cases, the Board adopted Reports of Regional
Directors or Hearing Officers in the absence of exceptions)*

**DECISION AND DIRECTION [that Regional Director
open and count ballots]**

S & S Welding Co., Inc., Minneapolis, MN, 18-RC-17353, June 9, 2005 (Chairman Battista and
Members Liebman and Schaumber)

*(In the following cases, the Board denied requests for review
of Decisions and Directions of Elections (D&DE) and
Decisions and Orders (D&O) of Regional Directors)*

California Almond Growers Exchange d/b/a Blue Diamond Growers, Sacramento, CA,
20-RM-2857, June 8, 2005 (Chairman Battista and Members Liebman and Schaumber)
Product Action International, LLC, Toledo, OH, 8-RC-16712, June 8, 2005
(Chairman Battista and Members Liebman and Schaumber)
United States Cold Storage, Inc., LaVergne, TN, 26-RD-1116, June 8, 2005
(Chairman Battista and Members Liebman and Schaumber)
Graham Automotive, Inc. d/b/a Valley Honda, Monroeville, PA, 6-RD-1552, June 8, 2005
(Chairman Battista and Members Liebman and Schaumber)

Miscellaneous Board Order

**ORDER [denying Employer's request for special
permission to appeal]**

Saint Gobain Abrasives, Worcester, MA, 1-RD-2003, June 6, 2005 (Chairman Battista and
Members Liebman and Schaumber)
